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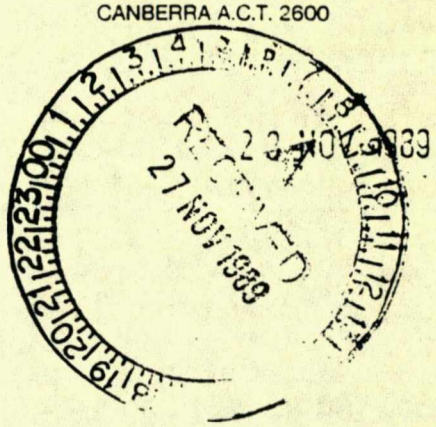
AUSTRALIA

SENATOR THE HON. GARETH EVANS Q.C.

MINISTER FOR FOREIGN AFFAIRS AND TRADE
PARLIAMENT HOUSE
CANBERRA A.C.T. 2600



Mr Russell Rollason
Executive Director
Australian Council For Overseas Aid
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CANBERRA ACT 2601

Dear Mr Rollason

Thank you for your letter of 22 September 1989 in which you conveyed to me the resolution on East Timor adopted at the annual meeting of ACFOA.

You will be aware from my letter to you of 12 December 1988 of the Government's basic position on the recognition of Indonesian sovereignty over East Timor. At the same time, the Government supports the efforts of the United Nations' Secretary-General to assist Portugal and Indonesia to achieve agreement on East Timor taking account of the interests of all parties involved. The Government's position therefore generally accords with the Council's resolution to support moves within the UN system to find a just solution to the problem. However, the Government's position on Indonesian sovereignty means that it could not agree to support Bishop Belo's call for a UN-supervised referendum in East Timor, as advocated in his February 1989 letter to the UN Secretary-General, unless this had the concurrence of the Indonesian Government. As you know, the Government has also consistently made clear that it does not condone the manner in which East Timor was incorporated into Indonesia.

The Council's resolution referred to the "on-going conflict and human rights violations in East Timor". The Government would not dispute that deaths and casualties still occur as a result of conflict in the province, nor that there are human rights violations there. It is the Government's firm view, however, that the only practical way to assist the people of East Timor, including on human rights issues, is by working through the Indonesian authorities.

This was demonstrated in a practical way recently when the Australian Ambassador in Jakarta, Mr Flood, was instructed to investigate allegations of human rights abuses during his visit to the province from 23 - 27 October. Mr Flood also took the opportunity on the visit to announce the first Australian bilateral aid grant to East Timor, a grant of $100,000 to assist farmers there through the demonstration of improved but simple technologies relevant to their needs. I attach a copy of my answer to a question without notice in the Senate on 1 November 1989 which provides further details on this.

ACFOA might also be interested to have the following information on the outcome of Mr Flood's investigation of human rights abuses in East Timor. Following his discussions with numerous Government officials, military authorities, and a range of prominent Church and civilian figures, in which he expressed Australia's concern at reports that some of the students who were involved in the demonstration which occurred during the Papal Mass held in Dili on 12 December may have been treated harshly, Mr Flood reported his findings that approximately fifteen youths had been detained by local authorities for questioning following the demonstration, and that there was evidence that three of these may have been beaten. The Ambassador found no evidence to support reports of torture or executions. The Indonesian authorities in Dili advised Mr Flood on 27 October that all persons detained from among students who were involved in the demonstration at the Papal Mass had been released.

In addition, at the time of the Ambassador's visit to East Timor some 28 students, apparently fearing that their role in helping to organise the demonstration at the Papal Mass might lead to recriminations from local authorities, had taken refuge in the house of Bishop Belo. The students were still there at the time of Mr Flood's departure from the province. However, the Chief Prosecutor in East Timor informed Mr Flood on 23 October that he had not been approached to lay charges against anyone in relation to the demonstration at the Papal Mass.

In regard to the total number of prisoners in East Timor, Mr Flood was informed that 277 people were currently serving sentences in Bekora Gaol in Dili, and an additional 23 persons were detained there pending trial. Of those at Bekora Gaol only five were political prisoners; six other East Timorese political prisoners are said to be held at Cipinang Gaol in Jakarta. A further 17 non-political prisoners were held at Maliana, a smaller prison in the west of East Timor, and it would also appear that three students were still being detained by local authorities without charges having been laid at that time of the Embassy visit.

This information should, I hope, reassure you that the Australian Government maintains a close watch on human rights issues in East Timor and, where proven, expresses its concern about human rights abuses to the Indonesian Government.

Yours sincerely

GARETH EVANS

EXTRACT FROM SENATE DAILY HANSARD

Wednesday 1 November 1989
(Questions without Notice, p2702)

TIMOR GAP TREATY

Senator AULICH—I ask the Minister for Foreign Affairs and Trade whether there is any connection between his announcement of an agreement with Indonesia on a Zone of Cooperation Agreement Between Australia and Indonesia on the Timor Gap and reports of new Australian aid to East Timor? Also, in view of Portugal's reported criticism of our negotiations with Indonesia on a Timor Gap treaty last year, what is the Government's attitude to Portugal's concern in all this?

Senator GARETH EVANS—Senator Aulich has added a few embellishments to the question that I had in mind in this respect. The only connection between the two developments to which he referred is the Australian Government's clear-cut policy of recognition of Indonesian sovereignty over East Timor—a policy that was first adopted by the then Government in 1979 and which was reaffirmed by the present Government by prime ministerial statement on 22 August 1985. The Prime Minister, in making the point in 1985, made it clear that recognition of Indonesian sovereignty had permitted us to pursue human rights and aid issues in the province and that negotiations over the Timor Gap sea bed could in reality only take place with Indonesia. Certainly, successive Australian governments—not just ourselves but our predecessors—have taken the view that the only practical way to assist the people of East Timor is to work through the Indonesian authorities.

On the question of bilateral aid, I took the initiative during the visit of Foreign Minister Ali Alatas in March to ask him about the Indonesian Government's opening of East Timor—the adoption of moves by the Government to open East Timor by putting it on the same civilian administration footing as other provinces, and the permitting of significantly freer movement to and from the province from elsewhere in Indonesia, while at the same time more readily granting access to foreigners, including Australian journalists. Against the background of that very significant policy development during the year, I asked my counterpart whether we might extend our bilateral aid effort in Indonesia to this province in addition to the quite substantial finanical contributions Australia has been making for many years to the aid programs of international agencies operating in East Timor.

Subsequent consultations with the Indonesian planning authorities identified the agricultural sector as a top priority for Australian bilateral aid in East Timor. Our Ambassador in Jakarta, Mr Phil Flood, took the opportunity during his first visit to the province last week to announce a grant of $100,000 under the Australian International Development Assistance Bureau's small activities scheme to assist farmers there through the demonstration of improved but simple technologies relevant to their needs. I hope that in future we will be able to upgrade the amount of direct bilateral aid to that province.

In relation to the second part of the question, concerning the Portguese reaction to the announced conclusion of the Timor Gap negotiations, the Portuguese Ambassador did call on me yesterday on instructions from his Government to reiterate earlier Portuguese statements that Australia's signature to and ratification, in due course, of the Timor Gap Zone of Cooperation Treaty would, in the view of the Portuguese, constitute a breach of international law. The Ambassador also stated again that Portugal would take due action after the signing of the Treaty in what he described as appropriate international forums and organisations. Similar representations were made a day earlier to our Ambassador in Lisbon.

I made it clear, in reply to the Portuguese Ambassador, that should Portugal seek to initiate any action in any forum, Australia would defend its position with vigour and determination. We are quite confident of our legal position on this matter. I have already

indicated this in the Senate in more detail than it is necessary to go into now—in the adjournment debate of 20 March 1986 and in Question Time on 18 October last year. I should add, though, that we have taken the view since 1979 that whatever the unhappy circumstances and indeed, possible illegality, surrounding Indonesia's acquisition of East Timor in the mid-1970s, Indonesian sovereignty over that territory should be accepted not only on a de facto but on a de jure basis. There is no binding legal obligation not to recognise the acquisition of territory that was acquired by force. Such a recognition does not, of course, imply approval of the circumstances of the acquisition. In international law the legality of the original acquisition of territory by a state has to be distinguished in subsequent dealings between the state acquiring that new territory and other states—in this instance, Australia.

The last point I want to make is that Australia has consistently supported discussions between Portugal and Indonesia under the auspices of the United Nations Secretary-General to resolve the lingering East Timor issue as it exists between those two countries. That is a matter that relates to the dispute between Portugal and Indonesia, to which Australia is not a party, and is quite separate from the Timor Gap negotiations.